



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R03-OAR-2021-0017; FRL-9091-02-R3]

#### **Air Plan Approval; Maryland; Baltimore Area Base Year Inventory for the 2015 Ozone National Ambient Air Quality Standards**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a state implementation plan (SIP) revision formally submitted by the State of Maryland. This revision consists of the base year inventory for the Baltimore, Maryland marginal nonattainment area (Baltimore Area) for the 2015 ozone national ambient air quality standards (NAAQS). This action is being taken under the Clean Air Act (CAA).

**DATES:** This final rule is effective on **[insert date 30 days after date of publication in the Federal Register]**.

**ADDRESSES:** EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2021-0017. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <https://www.regulations.gov>, or please contact the person identified in the **For Further Information Contact** section for additional availability information.

**FOR FURTHER INFORMATION CONTACT:** Serena Nichols, Planning & Implementation Branch (3AD30), Air & Radiation Division, U.S. Environmental Protection Agency, Region III,

1650 Arch Street, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814-2053.

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**SUPPLEMENTARY INFORMATION:** On July 30, 2020, the Maryland Department of the Environment (MDE), on behalf of the State of Maryland, submitted a revision to the Maryland SIP entitled, “2015 8-Hour Ozone NAAQS (0.070 ppm) Marginal Area State Implementation Plan for the Baltimore, MD Nonattainment Area, SIP # 20-08.” This SIP revision, referred to in this rule action as the “Baltimore base year inventory SIP,” addresses the base year inventory requirement for the 2015 ozone NAAQS.

## **I. Background**

On October 1, 2015, EPA strengthened the 8-hour ozone NAAQS, lowering the level of the NAAQS from 0.075 parts per million (ppm) to 0.070 ppm. 80 FR 65292 (October 26, 2015). Effective August 3, 2018, EPA designated the Baltimore Area, consisting of Anne Arundel, Baltimore, Carroll, Harford, and Howard Counties and the City of Baltimore, all in Maryland, as marginal nonattainment for the 2015 ozone NAAQS. 83 FR 25776 (June 4, 2018). CAA section 182(a)(1) requires ozone nonattainment areas classified as marginal or above to submit a comprehensive, accurate, current inventory of actual emissions from all emissions sources in the nonattainment area, known as a “base year inventory.” The Baltimore base year inventory SIP addresses a base year inventory requirement for the Baltimore Area.

## **II. Summary of SIP Revision and EPA Analysis**

### **A. EPA’s Evaluation of the Baltimore Base Year Inventory SIP**

EPA’s review of Maryland’s base year inventory SIP for the Baltimore Area indicates that it meets the base year inventory requirements for the 2015 ozone NAAQS. As required by 40 CFR 51.1315(a), MDE selected 2017 for the base year inventory, which is consistent with the baseline year for the reasonable further progress (RFP) plan because it is the year of the most recent triennial inventory. MDE included actual ozone season emissions, pursuant to 40 CFR 51.1315(c).

EPA prepared a Technical Support Document (TSD) in support of this rule. In that TSD, EPA reviewed the results, procedures, and methodologies for the SIP base year, and found them to be acceptable and developed in accordance with EPA's technical guidance. The TSD is available online at <http://www.regulations.gov>, Docket ID No. EPA-R03-OAR-2021-0017.

#### B. Base Year Inventory Requirements

In EPA's December 6, 2018 (83 FR 62998) rule, "Implementation of the 2015 National Ambient Air Quality Standards for Ozone: Nonattainment Area State Implementation Plan Requirements," known as the "SIP Requirements Rule," EPA set out nonattainment area requirements for the 2015 ozone NAAQS. The SIP Requirements Rule established base year inventory requirement, which were codified at 40 CFR 51.1315. As required by 40 CFR 51.1315(a), each 2015 ozone nonattainment area to submit a base year inventory within 2 years of designation, i.e., by no later than August 3, 2020.

Also, 40 CFR 51.1315(a) requires that the inventory year be selected consistent with the baseline year for the RFP plan as required by 40 CFR 51.1310(b), which states that the baseline emissions inventory shall be the emissions inventory for the most recent calendar year for which a complete triennial inventory is required to be submitted to EPA under the provisions of subpart A of 40 CFR part 51, Air Emissions Reporting Requirements, 40 CFR 51.1-50. The most recent triennial inventory year conducted for the National Emissions Inventory (NEI) pursuant to the Air Emissions Reporting Requirements (AERR) rule is 2017. 73 FR 76539 (December 17, 2008). Maryland selected 2017 as their baseline emissions inventory year for RFP. This selection comports with EPA's implementation regulations for the 2015 ozone NAAQS because 2017 is the inventory year. 40 CFR 51.1310(b).<sup>1</sup> Further, 40 CFR 51.1315(c) requires emissions values included in the base year inventory to be actual ozone season day emissions as defined by

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<sup>1</sup> On January 29, 2021, the Court of Appeals for the D.C. Circuit issued its decision regarding multiple challenges to EPA's implementation rule for the 2015 ozone NAAQS which included, among other things, upholding this provision allowing states to use an alternative baseline year for RFP. *Sierra Club v. EPA*, No. 15-1465 (D.C. Cir.) (mandate not yet issued). The other provisions of EPA's ozone implantation rule at issue in the case are not relevant for this rule.

40 CFR 51.1300(q), which states: Ozone season day emissions means an average day's emissions for a typical ozone season work weekday. The state shall select, subject to EPA approval, the particular month(s) in the ozone season and the day(s) in the work week to be represented, considering the conditions assumed in the development of RFP plans and/or emissions budgets for transportation conformity.

### C. Baltimore Base Year Inventory SIP

The Baltimore base year inventory SIP contains an explanation of MDE's 2017 base year emissions inventory for Baltimore (2017 Baltimore BYE) for stationary, non-point, non-road, and on-road anthropogenic sources, as well as biogenic sources, in the Baltimore Area. MDE estimated anthropogenic emissions for volatile organic compound (VOC), nitrogen oxide (NO<sub>x</sub>), and carbon monoxide (CO) for a typical ozone season workweek day.

MDE developed the 2017 Baltimore BYE with the following source categories of anthropogenic emissions sources: point, quasi-point, non-point, non-road, on-road, biogenic, and commercial marine vessels, airport, and railroad emissions sources (MAR). Appendix A of the Baltimore base year inventory SIP, 2017 Base Year SIP Emissions Inventory Methodologies (Appendix A), sets out the methodologies MDE used to develop its base year inventory.<sup>2</sup>

EPA's review of Maryland's base year inventory SIP for the Baltimore Area indicates that it meets the base year inventory requirements for the 2015 ozone NAAQS. Other specific requirements of MDE's July 30, 2020 submittal and the rationale for EPA's proposed action, including further information on each source category, are explained in the notice of proposed rulemaking (NPRM) and will not be restated here. No public comments were received on the NPRM.

### III. Final Action

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<sup>2</sup> The Appendix A – 2017 Base Year SIP Emission Inventory Methodologies, submitted with the 2015 8-Hour Ozone NAAQS Marginal Area State Implementation Plan for the Baltimore, MD Nonattainment Area is included in the docket for this rule available online at <https://www.regulations.gov>, Docket ID: EPA-R03-OAR-2021-0017.

EPA's review of this material indicates the Baltimore base year inventory SIP meets the base year inventory requirement for the 2015 ozone NAAQS for the Baltimore Area. Therefore, EPA is approving the Baltimore base year inventory SIP, which was submitted on July 30, 2020.

#### **IV. Statutory and Executive Order Reviews**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this final rule, approving Maryland's base year inventory SIP for the 2015 ozone NAAQS, does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

#### **List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Nitrogen dioxide, Volatile organic compounds.

Dated: October 19, 2021

Diana Esher,  
Acting Regional Administrator,  
Region III.

For the reasons stated in the preamble, the EPA amends 40 CFR part 52 as follows:

## **PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

### **Subpart V—Maryland**

2. In § 52.1070, the table in paragraph (e) is amended by adding an entry for “Baltimore Area Base Year Inventory for the 2015 Ozone National Ambient Air Quality Standards” at the end of the table to read as follows:

#### **§ 52.1070 Identification of plan.**

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(e)\* \* \*

<b>Name of non-regulatory SIP revision</b>	<b>Applicable geographic area</b>	<b>State submittal date</b>	<b>EPA approval date</b>	<b>Additional explanation</b>
* * *	* *	* *	*	
Baltimore Area Base Year Inventory for the 2015 Ozone National Ambient Air Quality Standards	Baltimore Area in Maryland.	7/30/20	<b>[insert date of publication in the Federal Register], [insert Federal Register citation]</b>	The Baltimore Area consists of Anne Arundel, Baltimore, Carroll, Harford, and Howard Counties and the City of Baltimore.